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09/319,243	08/05/1999	PING LIONG TJOA		2663

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EXAMINER

HAMILTON, LALITA M

ART UNIT PAPER NUMBER

3624

DATE MAILED: 06/18/2003

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Paper No. 24

Application Number: 09/319,243  
Filing Date: August 05, 1999  
Appellant(s): TJOA, PING LIONG

**MAILED**

JUN 18 2003

**GROUP 3600**

\_\_\_\_\_  
Felix J. D'Ambrosio  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed March 31, 2003.

**(1) *Real Party in Interest***

A statement identifying the real party in interest is contained in the brief.

**(2) *Related Appeals and Interferences***

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

**(3) *Status of Claims***

The statement of the status of the claims contained in the brief is correct.

**(4) *Status of Amendments After Final***

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) *Summary of Invention***

The summary of invention contained in the brief is correct.

**(6) *Issues***

The appellant's statement of the issues in the brief is correct.

**(7) *Grouping of Claims***

Appellant's brief includes a statement that claims 12 and 14-23 do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

**(8) *Claims Appealed***

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(9) *Prior Art of Record***

3,334,899

*Bosko et al*

8-1967

**(10) *Grounds of Rejection***

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The following ground(s) of rejection are applicable to the appealed claims:

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 12 and 14-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bosko.

Bosko discloses a weighted training device comprising an intermediate element formed as a rod (fig.1: 12), identical end elements situated at a respective end of said intermediate element (10 and 11), each element having a spherical form, the diameter of which may be adapted to the palm of the hand (col.1, lines 40-45) with a non-discontinuous spherical surface remote from said intermediate element, a turning region making a steady transition to the intermediate element, the total length of the training apparatus having the capacity to span the length of the shoulder span of the person using it (col.5, lines 40-45), the radius of the conversely concave region having the capacity to be equal to the radius of the non-discontinuous spherical surface (fig.1), the conversely concave region and turning region forming a smaller diameter than the equivalent diameter of the intermediate element (fig.1), the intermediate element being cylindrical over a substantial portion of its length (fig.1), the training apparatus molded in one piece (fig.1 and 5), and the apparatus being made of plastic and other materials (col.1, lines 40-45). Bosko further discloses that the apparatus may be any size, shape,

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or length (col.1, lines 40-45 and col.5, lines 40-42). It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the radius of the spherical surface being between 30 and 75mm, the minimum diameter of the conversely concave region and turning region in the range of 17 and 25 mm, and the total length of the apparatus being between 200 and 2000 mm, since Bosko discloses that any size, shape, and length of parts in the device may be utilized depending on how the user desires to utilize the device.

**(11) *Response to Argument***

The Appellant has argued that there is no disclosure in Bosko which tells the user that the spherical members may be grasped. In response, the spherical members of Bosko have the functioning capability of being grasped by the user if the user so desires. Bosko meets the structural limitations as claimed by the Appellant.

It has been argued that Bosko does not disclose the diameter of the spherical elements being adapted to the palm of the hand of the training person, the turning region making a steady transition into the conversely concave region, the conversely concave region making a steady transition to the intermediate rod member, or the training apparatus being approximately in the range of the length of the shoulder span of the person using it. In response, on page 3, 3<sup>rd</sup> paragraph of the specification, the Appellant defines "steady transition" as intending to "imply that the spherical form of the end piece 12 and 13 changes over into the concave region 23 and 24, respectively, via a turning region 25, or in other words without any discontinuity". Bosko clearly discloses a "steady transition" from one element to the next in figures 1 and 5. Further, the device

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disclosed by Bosko has the capability of being adapted to the palm of the user and the capability of having a total length of the device in the range of the shoulder span of the person using it in that Bosko discloses that various sizes, shapes, and lengths may be utilized depending on the needs of the user (col.1, lines 40-45 and col.5, lines 40-42).

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Lalita M. Hamilton

June 16, 2003

Conferees:  
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